Office-Supreme Court, U.S.
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No. 81-147

In the

Supreme Court of the United States

OCTOBER TERM, 1981

ANABEL J. McCUTCHEON,

Petitioner,

vs.

CHICAGO BOARD OF EDUCATION,
MRS. CAREY B. PRESTON,
MICHAEL J. MURRAY,
EARL B. HOFFENBERG,
JOSEPH P. HANNON,
WILLIAM ROHAN,
GERARD J. HEING,
MARIO GAROFALO,

Respondents.

Appeal from the United States Court of Appeals
for the Seventh Circuit
Judge ROBERT A. SPRECHER
Judge HARLINGTON WOOD
Judge RICHARD D. CUDAHY
Judge WALTER CUMMINGS
Judge WILLIAM BAUER

SUPPLEMENTARY BRIEF FOR A PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

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Oral Argument Requested

QUESTIONS PRESENTED FOR REVIEW

I. Whether the Attorneys: MICHAEL J. MURRAY, PAUL HEINEKE, and THOMAS BROWN maliciously lied about their statutory authority to expend public school funds to represent the CHICAGO BOARD OF EDUCATION, 1976-1981 and specific Defendants, who were fired by the Illinois Legislature for such misuse of funds, leading to the November, 1979 bankruptcy of $550,000,000 (five hundred, fifty million—half a billion dollars).

II. Whether the U.S. District Court: Judges Parsons, Leighton, Aspen, Crowley and Sussman and the Seventh Circuit Court of Appeals: Judges Cummings, Bauer, Wood, Sprecher have denied a non-attorney Plaintiff due process and equal representation by establishing a privileged class of politically affiliated Defendants (CHICAGO BOARD OF EDUCATION, CHICAGO FINANCE AUTHORITY) and Defendant Attorneys, suppressing the evidence of criminal misuse of funds in the public records, witnesses and discovery denied.

III. Whether the untimely "taxation of costs" signed by Judge Leighton, former City of Chicago Corporation Counsel, to permit PAUL HEINEKE, former City of Chicago Corporation Counsel, to attempt extortion of money for the Third Time from Petitioner in four "consolidated" Title VII complaints: is conduct "unbecoming a Judge"; or punishment, retaliation against a Plaintiff, who has appealed his errors in judgments, his "ex parte" communications with Defendants.

IV. Whether the Seventh Circuit Court of Appeals had jurisdiction, July 29-Aug. 18, 1981 [App. U. V pp.

45a ff] to hear Defendants' untimely appeal for fees, costs denied by the trial Court Judge Leighton on Jan. 21, 1980.

V. Whether the Clerks of the U.S. District, 7th Circuit Courts have jurisdiction to decide the statutory authority of private attorneys to defend a public body (USCA Question IX evaded by the 7th Circuit Court of Appeals, 79-2568) by awarding them "taxation of costs" [App. V, p. 47a].

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Comes Now the Petitioner, ANABEL J. McCUTCHEON, *Pro Se,* to file a Supplementary Brief for the reasons of an untimely sua sponte order [App. U, p. 45a] and improper Clerk's Award, Aug. 17, 1981 [App. V, p. 47a] granting private attorneys PAUL HEINEKE and

THOMAS BROWN "taxation of costs" denied them in the trial court by Judge Leighton on Jan. 21, 1981 and May 11, 1981 as per App. G-1, p. 12a, line 4 "Fees for Printing—$761.98".

That there is no evidence in any court record discussed herein for these private attorneys to collect for the public body BOARD OF EDUCATION—or their "Right to Defend" individuals at public expense [See App. S, T, pp. 42a, 43a].

That Defendants and Clerks of both Courts [H. Stuart Cunningham, Clerk of the U.S. District Court and Charlie Webb, Chief Depute Clerk of the Seventh Circuit Court of Appeals] have denied Petitioner a Rehearing by untimely mailings and have maliciously conspired to strike several appeals [App. O, P, Q, R] following a suit filed against them [81 C 1143] for loss, alteration, and refusal to submit the record, detrimental to the Defendant Board of Education to the U.S. Appellate #80-1482, 79-2568 and Supreme Court, #80-724.

That the denial of the public documents, other records detrimental to Defendants has suppressed the evidence of the criminal misuse of funds, personnel, 1976-1981 against specific Defendants and their attorneys herein named. Said certain defendants being fired by the Illinois Legislature for the misuse of half a billion dollars and personnel on May 1, 1980; said "dismissal from the service" being upheld by the Illinois Supreme Court in *Polich* v. *The Chicago Finance Authority,* 79 Ill. 2d 188 and in violation of the strict sanctions imposed in P.A. #81-1221, p. 8 on Defendants, effective Jan. 16, 1980 which the Chicago Courts of Judges Parsons, Leighton, Aspen, Crowley, and Magistrate Sussman and the U.S. Circuit Court of Judges Bauer, Cummings, Sprecher, Wood, and Cudahy failed to recognize or implement under Title 42 U.S.C. 1983.

OPINIONS BELOW

1. Docketed May 13, 1981 Briefing of Judge Aspen on Plaintiff's Motion for a Change of Venue. It is unpublished and reprinted in App. I, p. 17a.

2. Docketed May 19, 1981 Referral by Magistrate Sussman to the Executive Committee without prior notice to Plaintiff. It is unpublished and reprinted in App. J, p. 19a.

3. Docketed May 19, 1981 Refusal of a Change of Venue by Chief Justice Parsons without regard to the briefing schedule of Judge Aspen. It is unpublished and reprinted here in App. K. p. 21a.

4. Docketed May 29, 1981 Change of Status Hearing until June 12th. It is unpublished and is reprinted in App. p. 24a.

5. No DOCKETING. June 1, 1981 summary judgment dismissing all Defendants. It is unpublished and is reprinted in App. N. p. 25a.

6. No Judgment Order. June 5, 1981 (No notice of any hearing before Judge Crowley) Dismissal of private Attorney PAUL HEINEKE without the public documents demanded authorizing him to represent the BOARD OF EDUCATION, employees at PUBLIC EXPENSE, 1976-1981.

It is unpublished and is reprinted in App. p. 36a.

Notice of Appeal to the U.S. Supreme Court was filed on June 30, 1981 Consolidated 81 C 098 and 81 C 2411.

JURISDICTION

Jurisdiction is invoked for a Writ Extraordinaire in accordance with 28 U.S.C. §1651 Writs and §1652 Judicial Procedure:

> "(a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usuages and principles of law"

Pursuant to the Public Information Act of 1967; the State Records Act of 1957, Section 43:

> "'Agency' means all parts, boards, and commissions . . . 'Public officers' means all officers of the executive branch . . . and all other officers (Van Gorkom) and heads, presidents (Kenneth Smith), or Chairmen of said boards, commissions, and agencies STATE GOVERNMENT. . ."

Pursuant to the Public Information Act, Section #3:

> "Every Agency [Board of Education, Chicago Finance Authority] shall make available to the public the following information:
>
> 1. Publication in the Federal Register: addresses, officers, methods of applying for access to the public records.
>
> 2. Agency Opinions and Orders: INSTRUCTION TO STAFF THAT AFFECT ANY MEMBER OF THE PUBLIC (Plaintiff, et. al. involved in civil rights complaint to the EEOC and under Title VII)"

Original Jurisdiction was invoked under Title 42 U.S.C. §1983, §1988 and Title 18 U.S.C. §241 for the conspiracy of hiring private attorneys "under the counter", 1976-1981 to fire Plaintiff; deprive her of a means of a livelihood; deny her a fair trial; jury trial on criminal charges of which she was previously acquitted; and deprive her

of fair appeals to the U.S. Appellate and Supreme Courts.
Title 42 U.S.C. §1983

§ 1983. Civil action for deprivation of rights.

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress (complaint for administrative review).

Title 42 U.S.C. §1988

§ 1988. Proceedings in vindication of civil rights

The jurisdiction in civil and criminal matters conferred on the district courts by the provisions of this chapter and Title 18, for the protection of all persons in the United States in their civil rights, and for their vindication, shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where they are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the constitution and statutes of the State wherein the court having jurisdiction of such civil or criminal cause is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern the said courts in the trial and disposition of the cause, and, if it is of a criminal nature, in the infliction of punishment on the party found guilty.

Title 18: §241:

§ 241. Conspiracy against rights of citizens.

If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured—

They shall be fined not more than $10,000 or imprisoned not more than ten years, or both; and if death results, they shall be subject to imprisonment for any term of years or for life.

APPELLATE COURT JURISDICTION

Jurisdiction is invoked in the Appellate Court under Title 28 U.S.C. §2202 (1970):

"Further necessary or proper relief based on a declaratory judgment or decree may be granted, after reasonable notice and hearing, against any adverse party whose rights have been determined by such judgment."

CONSTITUTIONAL PROVISIONS

United States Constitution, Amendment V: Guaranty of Trial By Jury; Private Property Respected:

. . . nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

United States Constitution, Amendment XIV: Definition of Citizenship

". . . nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

ILLINOIS STATUTES

Ill. Rev. Stat., 1975 Chapter 122 (School Law):

> §34-18.1 *Protection from suit.* The board of education shall insure or indemnify and protect the board, any member of the board or any agent, employee, teacher, student teacher, officer or member of the supervisory staff of the school district against financial loss and expense, including reasonable legal fees and costs arising out of any claim, demand, suit, or judgment by the reason of alleged negligence, alleged violation of civil rights occurring on or after September 5, 1967. . . ."

[The Board of Education, City of Chicago has been in violation of this statute-not having been "bonded" since December, 1975 for lack of funds]

Ill. Rev. Stat., 1975 Chapter 122 (School Law)

§34-49 *Contracts, expense and liabilities without appropriation*:

> "No contract shall be made or expense or liability incurred by the Board, or any member of committee thereof, or by any person for or in its behalf, notwithstanding the expenditure may have been ordered by the board, unless an appropriation therefore has been previously made. Neither the board, nor any member of committee, officer, head of Department [Defendant MICHAEL J. MURRAY] or employee thereof shall during a fiscal year expend or contract to be expended any money, or incur any liability, or enter into any contract which by its terms involves the expenditure of money for any of the purposes for which provision is made in the budget, in excess of the amounts appropriated in the budget. Any contract, verbal or written, made in violation of this section is void as to the board, and no moneys belonging thereto shall be paid thereon."

Ill. Rev. Stat., 1975: Chapter 122 (School Law):

§34A-606 (new paragraph—P.A. 81-1221)

(Ch. 122, new par. 34A-606) [S.H.A. ch. 122, ¶ 34A-606]

Sec. 34A-606. Initial and annual reports. The Directors, upon taking office and annually thereafter, shall prepare and submit to the Governor, Mayor, General Assembly, and City Council a report which shall include the audited financial statement for the preceding Fiscal Year of the Board, an approved Financial Plan or a statement of reasons for the failure to adopt such a Financial Plan, a statement of the major steps necessary to accomplish the objectives of the Financial Plan, and a request for any legislation necessary to achieve the objectives of the Financial Plan. The initial report of the Directors shall be submitted on or before April 1, 1980. Subsequent reports shall be submitted on or before January 1 of each year.

(Ch. 122, new par. 34A-607) [S.H.A. ch. 122, ¶ 34A-607]

Sec. 34A-607. Audit of Authority. The Authority shall be subject to audit in the manner now or hereafter provided for the audit of State funds and accounts. A copy of the audit report shall be submitted to the Auditor General, the Governor, the Speaker and Minority Leader of the House of Representatives and the President and Minority Leader of the Senate.

Ill. Rev. Stat., 1975: Chapter 122 (School Law):

§34A-608 (new paragraph—P.A. 81-1221)

(Ch. 122, new par. 34A-608) [S.H.A. ch. 122, ¶ 34A-608]

Sec. 34A-608. Sanctions. (a) No member, officer, employee, or agent of the Board shall commit the Board to any contract or other obligation or incur any liability on behalf of the Board for any purpose

if the amount of such contract, obligation or liability is in excess of the amount authorized for that purpose then available under the Financial Plan and Budget then in effect.

(b) No member, officer, employee, or agent of the Board shall commit the Board to any contract or other obligation on behalf of the Board for the payment of money for any purpose required to be approved by the Authority unless such contract or other obligation has been approved by the Authority.

(c) No member, officer, employee, or agent of the Board shall take any action in violation of any valid order of the Authority or shall fail or refuse to take any action required by any such order or shall prepare, present, or certify any information (including any projections or estimates) or report for the Authority or any of its agents that is false or misleading, or, upon learning that any such information is false or misleading, shall fail promptly to advise the Authority or its agents.

(d) In addition to any penalty or liability under any other law, any member, officer, employee, or agent of the Board who shall violate subsections (a), (b), or (c) of this Section shall be subject to appropriate administrative discipline, including, if warranted, suspension from duty without pay or removal from office as provided by law.

Section 2. This Act takes effect upon its becoming a law. [S.H.A. ch. 122, ¶ 18-8 note]

Approved: January 16, 1980 Effective: January 16, 1980

STATEMENT OF FACTS

1. December 31, 1975 Expiration of Board Insurance Contract to "indemnify" the Board, employees, agents, in accordance with the state statute, #34-18.1, p. 7.

2. Jan. 1-Apr. 1, 1976 (three months' period of grace) No renewal of said contract or representation of the law firm of Heineke, *et. al.*

3. July 28, 1976 Petitioner's request for a "Right To Sue" Letter acknowledged by the EEOC, TCH 5-0006.

4. Sept. 7, 1976 Petitioner was suspended without charges;

Sept. 16, 1976 Petitioner was "charged" with ten counts—including two criminal charges of which she was acquitted.

5. Dec. 28, 1976 Petitioner exercised her "Right to Sue" by filing a Title VII action against the Chicago Board of Education for reduction of pay, 1971; unequal pay, 1972-1976 with men principals, District Three: 76 C 4763.

6. June 24, 1977 PAUL H. HEINEKE represented the Board without any statutory "Right to Defend" a public body at public expense.

7. Sept. 27, 28, 29, 1978 Petitioner, non-attorney filed 78-3894, 78-3899, 78-3955 for Deprivation of a Means of a Livelihood as a Teacher, Principal, Locked Doors of an Alleged Public Hearing.

8. Oct. 16, 1978 Private Attorneys, who had filed no appearances for Defendants solicited the consolidation (from H. Stuart Cunningham, Clerk of the Court) of these causes with the Title VII cause for which they still had no public contract.

9. Oct. 20, 1978 These letters were not docketed, but were sent "ex parte" to Judges Grady, Leighton, Marshall by NINA CUNNINGHAM, Administrative Assistant to H. Stuart Cunningham, without any notice to Plaintiff, who discovered them hidden in the files she first saw, January 29, 1981 after filing a complaint against the Clerk for the loss, "alteration", and refusal to submit 40 trial transcripts to the Appellate and Supreme Courts.

10. Nov. 1, 1978 Judge John Grady ordered Defendant Attorney Paul Heineke to show cause why he was soliciting this consolidation from the Clerk and Judges "ex parte".

11. Nov. 3, 1978 Judge Leighton consolidated this cause and two others after dismissing Plaintiff's attorneys before trial; denying her the Court Record (denied her by H. Stuart Cunningham); denying her any discovery in this cause; and subsequently denying her a PUBLIC JURY TRIAL BECAUSE THESE CAUSES WERE CONSOLIDATED TITLE VII.

12. Nov. 7, 8, 9, 1978 Judge James B. Parsons issued the executive orders of transfer IPSO POST FACTO the consolidation "take-over" by Judge George N. Leighton.

13. Nov. 20, 1978 "E. Dinger" (the latter identified as a Deputy Clerk, subordinate to H. Stuart Cunningham) submitted an opinion "ex parte" to Appellate Court Judges William Bauer, Robert A. Sprecher, Harlington Wood, Walter Cummings (76 C 4763 of an alleged interlocutory appeal BEFORE ANY NOTICE OF APPEAL, Nov. 24, 1978.

14. Jan.-March, 1979 Denials of Appeals of the wrongful consolidation of Judge George N. Leighton, former city of Chicago corporation counsel, on the alleged "in-

terlocutory-non-jurisdictional" defense of HEINEKE, BROWN, through the Clerks, who had altered the records. Items #8, #9, #10 have been encompassed in the complaint against H. Stuart Cunningham, Charlie Webb, Deputy Clerk of the 7th Circuit [81 C 686, 81 C 1143]. That the rulings appealed were rendered immediately following Plaintiff's Motion for Default in the U.S. District Court and presentation of all the documentary evidence—never submitted to the Seventh Circuit Court of Appeals because it was detrimental to the Defendants.

15. July 6-Nov. 30, 1979 Trial Call of all four cases consolidated with Title VII 76 C 4763.

16. Aug. 27, 1979 First Filed Appearance of Thomas Brown in 76 C 4763. Judge Leighton failed to rule on his statutory authority to represent the Board at public expense.

17. November 30, 1979 Judge Leighton "unconsolidated" 78 C 3899, 3955 on the basis of "absolute immunity" of Defendants "acting in a Judicial Capacity" [Kangaroo Court]: Specific Defendants being those fired by the Illinois Legislature and others being the witnesses who brought charges: Superintendents Hannon, Heing, Rohan, JANITOR GAROFALO.

18. Feb. 10, 1981 Judge Aspen grants Defendants an extension of time with inadequate notice of motion to Plaintiff (mailed Feb. 9, 1981).

19. March 3, 1981 Judge Aspen denies Plaintiff any hearing, argument on her Motion #1: "To strike the Appearance of Thomas P. Brown for the Board of Education, Reverend Kenneth Smith as being without statutory authority (P.A. 81-1221 of the Chicago Finance Authority (304: 608 *SANCTIONS*) in sole control of the financial and legal obligations of the Board since Jan. 16, 1980".

20. March 3, 1981 Denial of subpoena for public documents of the Chicago Finance Authority—JEROME VAN GORKOM.

21. March 3, 1981 Denial of subpoena for public documents of the Chicago Board of Education—MICHAEL J. MURRAY.

22. March 20, 1981 Plaintiff's Motion to Compel Answer of the City of Chicago—subpoena, MAYOR JANE BYRNE, CITY CORPORATION COUNSEL.

23. April 2, 1981 Status Hearing Before Magistrate Sussman:

Plaintiff's Motion for a tro against private attorney, Thomas Brown representing the Chicago Board of Education without appointment, public contract entered and continued until May 11, 1981.

Plaintiff's Motion to strike the answer of Defendant Van Gorkom to quash the subpoena is entered and continued to May 11, 1981

24. April 15, 1981 "Taxation of Costs" entered by Judge George N. Leighton without adequate notice to Plaintiff—no tax bill mailed to Plaintiff as per affidavit of Paul Heineke.

25. May 11, 1981 Ruling of Magistrate Sussman: "oral argument is reset to May 19, 1981 at 9:30 a.m."

26. May 12, 1981 Ruling of Judge Aspen: "Enter plaintiff's petition for a Change of Venue from Judge Marvin Aspen, Magistrate Carl Sussman. . ." Defendants to file a response on or before May 19, 1981. Plaintiff to file a reply by May 22, 1981.

27. May 12, 1981 Referral to the Executive Committee by Magistrate Sussman, regardless of the briefing order of Judge Aspen—and the oral argument reset to May 19, 1981.

28. May 14, 1981 Ruling of Judge Parsons: Change of Venue denied without notice to Plaintiff, without briefing schedule above.

29. May 20, 1981 Notice of Appeal of the unusual ruling of Judge James B. Parsons, Magistrate Sussman.

30. Notice of Appeal docketed June 18 in USDC; June 23 in USCA. Untimely request for fees, July 9, 1981.

31. May 29, 1981 Status Hearing for May 29, 1981 stricken and reset to June 12, 1981.

32. June 1, 1981 Decision of Marvin E. Aspen with inadequate notice of hearing to Plaintiff by Defendants (mailed after hearing).

33. June 5, 1981 Decision of Judge Crowley (81 C 2411) with inadequate notice of hearing to Plaintiff (mailed after hearing).

34. June 28, 1981 Untimely mailings of decisions by the Clerk of the U.S. District Court—denying Plaintiff a rehearing.

35. June 25, 1981 Decision of the Appellate Court Judges Sprecher, Wood, Cudahy in USCA 79-2568 now on appeal to the U.S. Supreme Court.

36. July 9, 1981 Untimely Mailing of USCA Deputy Clerks of June 25, 1981 decision to deny Plaintiff a rehearing.

37. July 9, 1981 Demand for Fees by Deputy Clerks of the USCA.

38. July 10, 1981 Payment of Docketing Fees upon first Demand.

39. July 13, 1981 Certified Receipt of payment of fees.

40. July 14, 1981 Second Demand for Fees from*

41. July 15, 1981 Untimely receipt of fees from* H. Stuart Cunningham, Clerk of the Court.

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* Defendants in Complaint 81 C 686, 1143 filed Jan., Feb., 1981.

REASONS FOR GRANTING THIS WRIT

Pursuant to the Public Information Act of 1967: the State Records Act of 1957, Section 43 [p. 4]: I, Anabel J. McCutcheon, citizen, registered voter in Cook County, tax-payer in three towns; am entitled to the record I have been forced to subpoena because Defendants failed to comply with their responsibilities under Title V, Section 552, which mandates:

1. Publication in the Federal Register: addresses, officers, methods of applying for access to public records for two public bodies: the CHICAGO BOARD OF EDUCATION, the CHICAGO FINANCE AUTHORITY.

2. Agency Opinions and Orders: Instruction to Staff that affect any member of the public.

Defendants can not claim exemption for their secretive actions (conspiracy) in retaining private attorneys BROWN, HEINEKE, ZIELINSKI, to effect the firing of McCutcheon BEFORE ANY ADMINISTRATIVE HEARING, 1976, or the filing of a COMPLAINT FOR ADMINISTRATIVE REVIEW, Nov. 7, 1977 under the Illinois Administrative Review Act—following the expiration of their insurance contract, Dec., 1975. Defendants cannot claim exemption for paying these attorneys "under the counter" with public funds ILLEGALLY TRANSFERRED FROM TEACHER SALARIES—ultimately leading to the closing of the schools, December, 1979—and the "dismissal from the service" of the specific defendants herein involved; and the creation of the Chicago Finance Authority and *SANCTIONS* [P.A. 81-1221] to stop these practices.

Defendants cannot claim exemption for retaining THOMAS BROWN, 1978 -to date when the original insurance contract (expired) was with the specific law firm of HEINEKE and SHRADER. BROWN has not been a member of that law firm since 1978 to claim "pre-existing contracts" to represent the Chicago Board of Education —in violation of P.A. 81-1221, p. 8, since January 16, 1980. Likewise, Defendant JEROME VAN GORKOM alleges he was honoring these "pre-existing contracts" without introducing any evidence that they existed. Neither did he produce any evidence of improper service to him: he, being the only officer of the Chicago Finance Authority, and failing to publish in the federal register the above pertinent record of where he could be served with service of summons: "He shouldn't go into the kitchen, if he can't stand the heat." That is, he shouldn't enter public service, disposing of $800,000,000 public ILLINOIS STATE FUNDS (not Chicago taxes for the schools) if he doesn't expect to account for every penny misspent—for private attorneys instead of for teachers' salaries.

Defendants have produced no evidence of said contracts because they have lied about their existence in "ex parte" communications [76 C 4763, 78 C 3894, 78 C 3899, 78 C 3955, *et. al.* to Judges Parsons, Leighton, Marshall, Grady, Aspen, and Crowley; and 79-2568, 80-1482 to Appellate Court Judges Sprecher, Bauer, Wood, Cummings, *et. al.*]

Judge Aspen prejudicially erred in dismissing Defendants:

1. Jerome Van Gorkom without any evidence in the record of his improper service of summons, "pre-existing" contracts with private attorneys, THOMAS BROWN,

PAUL HEINEKE, CHRISTINE ZIELINSKI. [App S, T, pp. 42a, 43a]

2. Thomas Brown, Christine Zielinski, Paul Heineke, Michael J. Murray without any evidence in *any* court record of their alleged statutory authority to be paid PUBLIC FUNDS to represent the Board, ex-employees, employees, 1976-1981. [App S, T, pp. 42a, 43a]

3. Defendants BOARD OF EDUCATION, who presented a united defense with Brown, Heineke, Zielinski (not employees, agents of the Board) and moved for a summary judgment of dismissal when Defendant James Scanlon, Assistant Attorney, Agent of the Board had never been enjoined.

4. Defendant Thomas Brown with no evidence in the record that he had absolute immunity or was acting in a judicial capacity as a private attorney in defense of individuals in public service fired by the Illinois Legislature for misuse of personnel, funds as described herein.

If Mr. Van Gorkom was inconvenienced as alleged by alias summons and late service of subpoena, it was because of *his* failure and that of the Authority to publish any address but 228 North LaSalle, wherein the Law Department, under the direction of Attorney MICHAEL J. MURRAY circumvented the service of summons, not only on Defendant Van Gorkom, but also on their former assistant attorney, JAMES SCANLON, whose address had to be subpoenaed in order to serve summons, although he was alleged to be the representative of the CHICAGO BOARD OF EDUCATION. That the Law Department simply told the U.S. Marshall: "He doesn't work here anymore." And he has not been enjoined. . . .

That said Board through their attorneys has denied Plaintiff public records, 1976-1981 in violation of the Freedom of Information Act, State Records Act and has negligently suppressed misuse of public funds in overpayments of salary, private legal services to Defunct Board Members, employees, agents in violation of P.A. 81-1221.

That said "Authority" was created by the State (P.A. 81-1221 new paragraph 34A) and upheld by the Illinois Supreme Court 79 Ill. 2d 188 *Polich* v. *Chicago School Finance Authority*) and said authority has had sole control of ALL financial and legal obligations since Jan., 1980.

That to deny Plaintiff discovery of the bonded officer Jerome Van Gorkom or place a protective order a information that has been published in the Media, before the Legislative Committee investigating the Board, or in evidence in the HAY ASSOCIATES REPORT is to suppress evidence of criminal misconduct and establishes a dual system of justice for the Defendant Agencies and the Plaintiff Victim.

Wherefore, Plaintiff respectfully requests that these subpoenas be honored immediately pursuant to Title V, Section 552 and the recent U.S. Supreme Court decision: *Richmond Newspapers, Inc., Et. Al.* v. *Commonwealth of Virginia, Et. Al.*, #79-243, which granted certiorari to review dismissal of subpoenaed witnesses:

> "Expressly guaranteed freedoms of the First Amendment share common core purpose of assuring freedom of communication on matters relating to the functioning of government."

Judge Crowley (81 C 2411 *McCutcheon vs. Board, Heineke*) prejudicially erred in dismissing Defendants without public hearing, discovery or jury trial—without adequate notice to non-attorney Plaintiff in a specific suit filed under Title V, Section 552 for the public records proving PAUL HEINEKE'S CLAIM to $5,196.00 "Taxation of Costs" brought on April 22, 1981. Defendants may be entitled to return of costs in a Title VII action, but PAUL HEINEKE has no authority to collect for them or to order trial transcripts, etc. for the use of 17 attorneys involved in this action without the fees being established before trial.

That the Board of Education employees, represented by these private attorneys are the recipients of additional compensation, to which they are not entitled, 1976-1981 in the form of legal fees, court costs, which PAUL HEINEKE has tried to extort from the Petitioner 1) November, 1979 —Confiscation of Witness fees (app. $300) for witnesses who did not appear. (condoned by Judge Leighton)

2) December, 1979 Motion before Judge Leighton for legal fees for a Title VII action—wholly consolidated with other three actions for their full life in which the Board of Education employed and paid 17 attorneys.

3) A ridiculous counter-claim for a $1,000,000 bond for Petitioner to sue the City of Chicago and injunction against Petitioner suing THOMAS BROWN, PAUL HEINEKE, CHRISTINE ZIELINSKI because they alleged to be CITY OF CHICAGO CORPORATION COUNSEL [when they could produce no evidence of being BOARD OF EDUCATION CORPORATION COUNSEL]

Their counter-claim was belied by the Affidavit [App. E, p. 8a] of Stanley Garber, March 20, 1981—

Then on April 15, 1981 without prior notice to Petitioner as per affidavit of mailing [App. G, p. 11a] PAUL HEINEKE again with the signature of Judge Leighton, again attempted to extort $5,196 from Petitioner THAT HE IS NOT ENTITLED TO.

That Attorneys THOMAS BROWN, PAUL HEINEKE ordered the Court Reporters in the pre-trial and trial hearings of Judge George N. Leighton to print their names as CITY OF CHICAGO CORPORATIION COUNSEL (when they could produce no evidence that they were BOARD OF EDUCATION CORPORATION COUNSEL). That said transcript record was declared "moot" and struck by the Seventh Circuit Court of Appeals, #79-2568; that the same court made no decision on the statutory authority of THOMAS BROWN, PAUL HEINEKE to represent the Board and failed to review Judge Leighton's rulings as placed before the Court. . .

Wherefore, Petitioner now seeks a CHANGE OF VENUE from that Appellate Court of Judges Cummings, Bauer, Wood, Sprecher, *et. al.* involved in "ex parte" communications with Defendants in previous appeals— and the production of the public records demanded above of Judges Parsons, Leighton, Aspen, Sussman, and Crowley . . . or in the alternate a reversal of the Judgment Orders, and the relief requested granted.

Respectfully submitted,

ANABEL J. MCCUTCHEON, *Pro Se*
Apt. 3B: 1917 Tanglewood Drive
Glenview, Illinois 60025
312-328-1630

CERTIFICATE OF SERVICE

I hereby certify that I submitted 40 copies of the foregoing Petition and mailed three copies to the Attorneys of Record, the Attorney General on September 9, 1981.

.....

Anabel J. McCutcheon

Apt. 3B: 1917 Tanglewood Drive
Glenview, Illinois 60025
312-328-1630

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APPENDIX A

Feb. 10, 1981 Judge Aspen grants Defendants an extension of time with inadequate notice of motion to Plaintiff (mailed Feb. 9, 1981).

UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Name of Presiding Judge: Honorable Marvin Aspen
Cause No. 81 C 0098 Date February 10, 1981
Title of Cause:
Anabel J. McCutcheon v. Board of Education of the City of Chicago, et al.,
Brief Statement of Motion:
Defendants motion for extension of time to answer or otherwise plead.
The rules of this court require counsel to furnish the names of all parties entitled to notice of the entry of an order and the names and addresses of their attorneys. Please do this immediately below (separate lists may be appended).
Names and Addresses of moving counsel:
Michael J. Murray
228 North LaSalle, Room 312
Chicago, Illinois 60601
Representing:
Defendants.
Names and Addresses of other counsel entitled to notice and names of parties they represent:
Anabel J. McCutcheon
Apt. 3B, 1917 Tanglewood Drive
Glenview, Illinois 60025
Plaintiff.

Defendants Board of Education and Smith's motion for an extension of time to answer or otherwise plead to and including February 24, 1981 is allowed. Status hearing set for March 13, 1981 at 10:30 A.M.

/s/ Marvin E. Aspen

APPENDIX B

March 3, 1981 Judge Aspen denies Plaintiff any hearing, argument on her Motion #1: "To strike the Appearance of Thomas P. Brown for the Board of Education, Reverend Kenneth Smith as being without statutory authority (P.A. 81-1221 of the Chicago Finance Authority (304: 608 *SANCTIONS*) in sole control of the financial and legal obligations of the Board since Jan. 16, 1980"

UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Name of Presiding Judge: Honorable Judge Aspen

Cause No. 81 C 98 Date March 3, 1981

Title of Cause:
McCutcheon v. Board of Education

Brief Statement of Motion:
Motion to strike the appearance of Thomas P. Brown for the Board of Education, Reverend Kenneth Smith as being without the statutory approval (P.A. 81-1221) of the Chicago Finance Authority (chap. 122: 304:608 *SANCTIONS*) in sole control of the financial and legal obligations of the Board since Jan. 16, 1980

The rules of this court require counsel to furnish the names of all parties entitled to notice of the entry of an order and the names and addresses of their attorneys. Please do this immediately below (separate lists may be appended).

Names and Addresses of moving counsel:
Anabel J. McCutcheon, non-attorney
Apt. 3B: 1917 Tanglewood Drive
Glenview, Illinois 60025

Representing:
Herself

Names and Addresses of other counsel entitled to notice and names of parties they represent:
Michael J. Murray
Attorney for the Board
228 North LaSalle (01)
Thomas Brown
221 North LaSalle Street (01)
Suite 1164

Received Feb. 24, 1981
H. Stuart Cunningham
United States District Court

Hand this memorandum to the Clerk.
Counsel will not rise to address the Court until motion has been called.

APPENDIX C

March 3, 1981 Denial of subpoena for public documents of the Chicago Finance Authority—Jerome Van Gorkom

Subpoena Duces Tecum Case No. 81 C 98

UNITED STATES DISTRICT COURT
Northern District of Illinois

The President of the United States of America

To: Jerome Van Gorkham, Chairman Chicago School Finance Authority
90 Half Day Road
Lincolnshire, Illinois 60015

—GREETING:

We Command You, that all business and excuses being laid aside, you and each of you attend before Honorable Judge Aspen one of the Judges of the the United States District Court for said District, on the 3rd day of March, A.D. 1981 at 9:30 o'clock in the A.M. in Room 1941 United States Court House in Chicago, in said District, to testify and give evidence in a certain cause now pending and undetermined in said Court, wherein Anabel J. McCutcheon is plaintiff and Paul Heineke, Christine Zielinski, and Thomas Brown, private attorneys are Defendants on the part of said Plaintiff. And that you also diligently and carefully search for, examine, and inquire after and bring with you, and produce at the time and place aforesaid, a certain

1. Budget, Line item, Unit, and object and person autorizing the use of public funds in the Financial Plan for Heineke, Zielinski, and Brown to represent The Board, Members, Agents, and Employees in Appellate and U.S. Supreme Court Actions, 80-1482, 79-2568, 80-724 against Anabel J. McCutcheon.

2. Certified Copy of the Chicago Finance Authority Approval of the legal representation of Heineke, Zielinski (Sec. 304: 608 Sanctions)

Thomas P. Brown

3. Certified Copy of the Report of Salary Administrator, Thomas Finnegan or his superior of the $10,000 in overpayment of principal Karl Siewers as per his testimony Dec. 17, 1979-Feb. 25, 1980

OR

4. A sworn affidavit that the above items do not exist. together with all copies, drafts, and vouchers relating to the said documents, and all other documents, letters, and paper writings whatsoever, that can or may afford any information or evidence in said cause. And this you shall in nowise omit, under the penalty of the law in that case made and provided.

To the Marshal of the Northern District of Illinois to execute and return in due form of law.

H. Stuart Cunningham

[SEAL] Clerk

BY _____

Deputy Clerk

Dated: _____

APPENDIX D

March 3, 1981 Denial of subpoena for public documents of the Chicago Board of Education—Michael J. Murray

Subpoena Duces Tecum Case No. 81 C 98

UNITED STATES DISTRICT COURT
Northern District of Illinois

The President of the United States of America

To: Michael J. Murray, Attorney For The Board
Keeper of the Records Chicago Board of Education
228 North LaSalle Street
Chicago, Illinois 60601

—GREETING:

We Command You, that all business and excuses being laid aside, you and each of you attend before Honorable Judge Aspen one of the Judges of the the United States District Court for said District, on the 3rd day of March, A.D. 1981, at 9:30 o'clock in the A.M. in Room 1941 United States Court House in Chicago, in said District, to testify and give evidence in a certain cause now pending and undetermined in said Court, wherein Anabel J. McCutcheon is plaintiff and Paul Heineke, Christine Zielinski, *Et. Al.* are Defendants Defendant, on the part of said Plaintiff. And that you also diligently and carefully search for, examine, and inquire after and bring with you, and produce at the time and place aforesaid, a certain

1. a certified copy of the Board Report and approval of a contract with private attorneys Heineke, Zielinski or the Law Firm of Heineke and Shrader to represent the Board, members of the Board, employees, agents in federal actions herein against Anabel J. McCutcheon June 24, 1977-Jan. 16, 1980.

2. pay records of all Board funds paid to private attorneys Heineke, Zielinski, Sept., 1976-to date.

3. pay records of Salary Administrator, Thomas Finnegan and name of his superior, who approved his paid vacation, Nov. 1-Nov. 13, 1979 out of the jurisdiction of the Court.

4. a certified copy of the report of Salary Administrator, Thomas Finnegan to the Chicago Schools Finance Authority of the overpayment of $10,000 salary to one Karl Siewers in accordance with his testimony in 76 C 4763 Dec. 17, 1979 to April 4, 1980.

5. The present whereabouts of James Scanlon, who was a subordinate in the Law Department.

together with all copies, drafts, and vouchers relating to the said documents, and all other documents, letters, and paper writings whatsoever, that can or may afford any information or evidence in said cause. And this you shall in nowise omit, under the penalty of the law in that case made and provided.

To the Marshal of the Northern District of Illinois to execute and return in due form of law.

H. Stuart Cunningham

[SEAL] Clerk

BY _____

Deputy Clerk

Dated: _____

APPENDIX E

March 20, 1981—Affidavit in Answer to Plaintiff's Motion to Compel Answer of the City of Chicago—subpoena, Mayor Jane Byrne, City Corporation Counsel

I, Stanley Garber, being first duly sworn on oath, deposes and states as follows:

I am the Corporation Counsel of the City of Chicago;

I am in receipt of a Subpoena Duces Tecum served upon my office;

Such Subpoena requests the production of certain records or in the alternative, a sworn affidavit that requested records do not exist.

Pursuant to such Subpoena I have caused an examination of records maintained by my office to determine whether or not the requested records exist. This examination indicated that:

a. Attorneys Paul Heineke, Christine Zielinski and Thomas Brown are not employed as attorneys by the Office of the Corporation Counsel of the City of Chicago and to my knowledge were never so employed;

b. We have no pay records for any of the three attorneys indicated above.

/s/ Stanley Gerber
Stanley Gerber
Corporation Counsel of
the City of Chicago

Subscribed And Sworn to
before me this 2nd day
of March, 1981.

Notary Public

MAR 3 1981
Judge Marvin E. Aspen
U.S. District Court

APPENDIX F

April 2, 1981 Status Hearing Before Magistrate Sussman:

Plaintiff's Motion for a tro against private attorney, Thomas Brown representing the Chicago Board of Education without appointment, public contract entered and continued until May 11, 1981.

Plaintiff's Motion to strike the answer of Defendant Van Gorkom to quash the subpoena is entered and continued to May 11, 1981.

UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Name of Presiding Magistrate: Honorable Carl B. Sussman (Jg. Aspen)

Cause No. 81 C 98 Date April 2, 1981

Title of Cause:
Anabel J. McCutcheon v. Board of Education, City of Chicago, et al.

Brief Statement of Motion:
Status hearing

The rules of this court require counsel to furnish the names of all parties entitled to notice of the entry of an order and the names and addresses of their attorneys. Please do this immediately below (separate lists may be appended).

Names and Addresses of moving counsel:

Representing:

Names and Addresses of other counsel entitled to notice and names of parties they represent:

Status hearing held. Plaintiff's motion to file briefs instanter and for continuance is granted. Plaintiff's motion for a temporary restraining order against private attorney Thomas Brown representing the Chicago Board of Education without appointment, Public Contract and motion to strike the answer of defendant Van Gorkom to quash the subpoena is entered and continued to May 11, 1981 at 9:30 a.m. at which time oral argument will be heard.

Hand this memorandum to the Clerk.

Counsel will not rise to address the Court until motion has been called.

(Filed April 8, 1981)

APPENDIX G

April 15, 1981 "Taxation of Costs" entered by Judge George N. Leighton without adequate notice to Plaintiff—no tax bill mailed to Plaintiff as per affidavit of Paul Heineke.

UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Name of Presiding Judge, Honorable George N. Leighton

Cause No. 76 C 4763 Date April 15, 1981

Title of Cause:
Anabel J. McCutcheon v. Board of Education

Brief Statement of Motion:
Taxation of costs

The rules of this court require counsel to furnish the names of all parties entitled to notice of the entry of an order and the names and addresses of their attorneys. Please do this immediately below (separate lists may be appended).

Names and Addresses of moving counsel:

Representing:

Names and Addresses of other counsel entitled to notice and names of parties they represent:

Ordered that hearing regarding the taxation of costs is set for April 22, 1981 at 9:30 a.m. before the clerk in room 2132.

Leighton, J.

Hand this memorandum to the Clerk.

Counsel will not rise to address the Court until motion has been called.

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Form A. O. 133 (6/76)

BILL OF COSTS

United States District Court

for the

NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

PRELIMINARY COPY

ANABEL J. McCUTCHEON,

Plaintiff,

vs.

BOARD OF EDUCATION OF THE CITY OF CHICAGO, et al.,

Defendants.

Docket Number

76-C-4736

Judgment having been entered in the above entitled action on the 28th day of February, 1980, against ANABEL J. McCUTCHEON the clerk is requested to tax the following as costs:

BILL OF COSTS

Fees of the clerk	$ None
Fees of the marshal	None
Fees of the court reporter for all or any part of the transcript necessarily obtained for use in the case	5,199.30 Kay Arbeit
Fees and disbursements for printing	761.98
Fees for witnesses (itemized on reverse side)	None
Fees for exemplification and copies of papers necessarily obtained for use in case	
Docket fees under 28 U. S. C. 1923	
Costs incident to taking of depositions	729.60
Cost as shown on Mandate of Court of Appeals	
Other Costs (Please itemize)	
Total	$ 6,689.08

State of Illinois
County of C O O K } ss:

I, Paul H. Heineke, do hereby swear that the foregoing costs are correct and were necessarily incurred in this action and that the services for which fees have been charged were actually and necessarily performed. A copy hereof was this day mailed to Miss Anabel J. McCutcheon with postage fully prepaid thereon.

Please take notice that I will appear before the Clerk who will tax said costs on , 19 at

Attorney for Board of Education of the City of Chicago

Subscribed and sworn to before me this day of A. D. 1981

at

Notary Public.

Costs are hereby taxed in the amount of $ this day of , 19 , and that amount included in the judgment.

Clerk.

By Deputy Clerk.

NOTE: SEE REVERSE SIDE FOR AUTHORITIES ON TAXING COSTS.

Exhibit "C" page 1 of 3

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Witness Fees (computation, cf. 28 U. S. C. 1821 for statutory fees)

Name and Residence	Attendance: Days	Attendance: Total Cost	Subsistence: Days	Subsistence: Total Cost	Mileage: Miles	Mileage: Total Cost	Total Cost Each Witness
NONE							
					TOTAL		

NOTICE

Section 1924, Title 28, U. S. Code (effective September 1, 1948) provides:

"Sec. 1924. Verification of bill of costs."

"Before any bill of costs is taxed, the party claiming any item of cost or disbursement shall attach thereto an affidavit, made by himself or by his duly authorized attorney or agent having knowledge of the facts, that such item is correct and has been necessarily incurred in the case and that the services for which fees have been charged were actually and necessarily performed."

See also Section 1920 of Title 28 which reads in part as follows:

"A bill of costs shall be filed in the case and, upon allowance, included in the judgment or decree."

The Federal Rules of Civil Procedure contain the following provisions:

Rule 54 (d)

"Except when express provision therefor is made either in a statute of the United States or in these rules, costs shall be allowed as of course to the prevailing party unless the court otherwise directs; but costs against the United States, its officers, and agencies shall be imposed only to the extent permitted by law. Costs may be taxed by the clerk on one day's notice. On motion served within 5 days thereafter, the action of the clerk may be reviewed by the court."

Rule 6 (e)

"Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, 3 days shall be added to the prescribed period."

Rule 58 (In Part)

"Entry of the judgment shall not be delayed for the taxing of costs."

Exhibit "C" page 2 of 3

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KAY ARBOIT, Official Reporter, United States District Court

McCUTCHEON v. BOARD OF EDUCATION of the CITY OF CHICAGO, et al

Transcript of proceedings:

	April 4, 1980	$ 8.00	
	Feb. 15, 1980	10.00	
	Feb. 15, 1980	2.00	
	Jan. 31, 1980	92.50	
Nov. 2 &	Dec. 7, 1979	55.50	
	Nov. 30, 1979	55.00	
	Sept.14, 1979	55.00	
	Aug. 27, 1979	52.50	
	July 20, 1979	30.00	
	July 13, 1979	60.00	
	July 6, 1979	35.00	
	Feb. 9, 1979		
	Jan. 19, 1979	21.00	
	Jan. 19, 1979	25.50	
	Dec. 15, 1978	21.00	
	Nov. 17, 1978	28.50	
	Nov. 3, 1978	37.50	$ 589.00

Testimony in hearing for a Preliminary Injunction - June 24, 1977 — 272.50

Transcript of proceedings (at trial):
Dec. 17, 18, 19, 20, 26, 27, 1979
Jan. 2, 3, 7, 8, 1980
Jan. 21 and 24, 1980 — 4,335.00

$5,196.50

Exhibit "C" page 3 of 3

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RULE 45. Taxation of Costs.

A. Time for filing Bill of Costs. Within Ten days of the entry of a judgment allowing costs, the prevailing party shall file a bill of costs with the Clerk and serve a copy of the bill on each adverse party, except that where the United States is the prevailing party it shall have thirty days to file said bill and serve copies. If the bill of costs is not filed within the ten days, costs other than those of the Clerk, taxable pursuant to 28 USC 1920, shall be deemed waived. The Court may, on motion filed within the time provided for the filing of the bill of costs, extend the time for filing the bill.

B. Costs of Stenographic Transcripts. Subject to the provisions of Federal Rules of Civil Procedure 54(d), the expense of any prevailing party in necessarily obtaining all or any part of a transcript for use in the case, for purposes of a new trial, or amended findings, or for appeal shall be a taxable cost against the adverse party. If in taxing costs the clerk finds that a transcript or deposition was necessarily obtained, only the costs of the original at regular copy rates as fixed by this court and in effect at the time the transcript was filed shall be allowed. Costs of additional copies of transcripts or depositions or costs of transcripts based on daily rates shall not be allowed unless previously provided for by order of court.

C. Bond Premiums. If costs shall be awarded by the court to either or any party then the reasonable premiums or expenses paid on all bonds or stipulations or other security given by the party in that suit shall be taxed as part of the costs of that party.

//

JUN 25 1976

APPENDIX H

May 11, 1981 Ruling of Magistrate Sussman: "oral argument is reset to May 19, 1981 at 9:30 a.m."

UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Name of Presiding Magistrate, Honorable Carl B. Sussman

Cause No. 81 C 98 Date May 11, 1981

Title of Cause:
Anabel McCutcheon v. Board of Education of City of Chicago

Brief Statement of Motion:
The rules of this court require counsel to furnish the names of all parties entitled to notice of the entry of an order and the names and addresses of their attorneys. Please do this immediately below (separate lists may be appended).

Names and Addresses of moving counsel:
Representing:

Names and Addresses of other counsel entitled to notice and names of parties they represent:

By agreement of the parties, oral argument is reset to May 19, 1981, at 9:30 a.m.

Carl B. Sussman
(Filed May 12, 1981)

Hand this memorandum to the Clerk.

Counsel will not rise to address the Court until motion has been called.

APPENDIX I

May 12, 1981 Ruling of Judge Aspen: "Enter plaintiff's petition for a Change of Venue from Judge Marvin Aspen, Magistrate Carl Sussman . . ." Defendants to file a response on or before May 19, 1981. Plaintiff to file a reply by May 22, 1981.

Name of Presiding Judge, Honorable Judge Marvin Aspen, Magistrate Sussman

Cause No. 81 C 98 Date May 12, 1981

Title of Cause:

Petition For A Change Of Venue or in the alternate an injunction, reprimand, striking of motions filed to Judge Aspen during the continuance granted by Judge Sussman, April 2,-May 11, 1981

Brief Statement of Motion:

McCutcheon v. Board of Education, Chicago Finance Authority

The rules of this court require counsel to furnish the names of all parties entitled to notice of the entry of an order and the names and addresses of their attorneys. Please do this immediately below (separate lists may be appended).

Names and Addresses of moving counsel:

Anabel J. McCutcheon, Non-Attorney
Apt. 3B: 1917 Tanglewood Drive
Glenview, Illinois 60025

Representing:

Names and Addresses of other counsel entitled to notice and names of parties they represent:

Michael J. Murray
Attorney for the Board

Attorneys Lundy, Fischer
Schiff, Hardin, & Waite
7200 Schiff Tower
233 South Wacker
Chicago, Illinois 60606

Raymond Carroll
Suite 1164: 22 N. LaSalle
Chicago, Illinois 60601

Thomas Brown
Suite 1164; 221 N. LaSalle
Chicago, Illinois 60601

Waive the right of argument before Judge Aspen
Request oral argument before Magistrate Sussman

Enter plaintiff's petition for a change of venue from Judge Marvin Aspen, Magistrate Carl Sussman or, in the alternate an injunction against defendants. Defendants to file a response on or before May 19, 1981. Plaintiff to file a reply by May 22, 1981.

Marvin E. Aspen

DOCKETED MAY 13, 1981

Hand this memorandum to the Clerk.

Counsel will not rise to address the Court until motion has been called.

APPENDIX J

May 12, 1981 Referral to the Executive Committee by Magistrate Sussman, regardless of the briefing order of Judge Aspen—and the oral argument reset to May 19, 1981

UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Name of Presiding Magistrate, Honorable Carl B. Sussman

Cause No. 81 C 98 Date May 12, 1981

Title of Cause:

Anabel J. McCutcheon v. Board of Education of the City of Chicago, et al.

Brief Statement of Motion:

The rules of this court require counsel to furnish the names of all parties entitled to notice of the entry of an order and the names and addresses of their attorneys. Please do this immediately below (separate lists may be appended).

Names and Addresses of moving counsel:

Representing:

Names and Addresses of other counsel entitled to notice and names of parties they represent:

The above-captioned matter is referred to the Executive Committee with the recommendation that it be reassigned to another magistrate of this court for the following reason:
Plaintiff has asserted in a recent motion that "This Court has established a privileged class of defendants Board of Education . . . . . ." which is not correct. Therefore, plaintiff's motion for a change of venue from this magistrate is hereby granted.

Carl B. Sussman
DOCKETED MAY 19, 1981.

Hand this memorandum to the Clerk.

Counsel will not rise to address the Court until motion has been called.

APPENDIX K

May 14, 1981 Ruling of Judge Parsons: Change of Venue denied without notice to Plaintiff, without briefing schedule above.

UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Name of Presiding Judge, Honorable James B. Parsons

Cause No. 81 C 89 Date May 14, 1981

Title of Cause:

Anabel J. McCutcheon v. Board of Education of the City of Chicago, et al.

Brief Statement of Motion:

The rules of this court require counsel to furnish the names of all parties entitled to notice of the entry of an order and the names and addresses of their attorneys. Please do this immediately below (separate lists may be appended.)

Names and Addresses of moving counsel:

Representing:

Names and Addresses of other counsel entitled to notice and names of parties they represent:

For the Executive Committee:

Matter referred to the Executive Committee with the recommendation that the above case be reassigned to another Magistrate of this Court is denied.

James B. Parsons
DOCKETED MAY 19, 1981

Hand this memorandum to the Clerk.

Counsel will not rise to address the Court until motion has been called.

APPENDIX L

May 20, 1981 Notice of Appeal of the unusual ruling of Judge James B. Parsons Magistrate Sussman.

IN THE
UNITED STATES DISTRICT COURT FOR
The Northern District Of Illinois
Eastern Division

No. 81 C 98

ANABEL J. McCUTCHEON,

Plaintiff,

v.

CHICAGO BOARD OF EDUCATION, CHICAGO SCHOOLS FINANCE AUTHORITY, PAUL H. HEINEKE, *Et Al.*

Defendants.

Judge MARVIN ASPEN
Magistrate CARL SUSSMAN

Chief Justice JAMES B. PARSONS
Judge GEORGE N. LEIGHTON
(76 C 4763)

NOTICE OF APPEAL

Please Take Notice that pursuant to Title V, Section 552 and 28 U.S.C. 1651 (a) Plaintiff will file for a Petition for a Writ Extraordinaire against the ruling of Chief Justice James B. Parsons made prematurely on May 14, before Plaintiff was permitted to "brief" on May 22 her motion for a Change of Venue before Judge Aspen, to whom Defendants filed six motions (in five weeks) to harass a non-attorney during a continuation granted by Magistrate Sussman.

On May 19, Plaintiff was not permitted oral argument (as requested) or to present her motion at the

same time three Defendant Attorneys were permitted to present argument "to explain" before the same magistrate, who had reprimanded her on March 23, for seeking redress Without An Attorney and ordered her to answer (a 2nd time) Defendant's motion to Quash A Subpoena For The Public Documents From The Chicago Schools Finance Authority.

In addition, Plaintiff will submit a copy of an April 22, 1981 "taxation of costs" from the Honorable Judge George N. Leighton's judgment of Feb. 28, *1980* to favor Defendant and Attorney Heineke and the falsified date of March 20, 1981 entered "By the Clerk".

Anabel J. McCutcheon

Apt. 3B: 1917 Tanglewood Drive
Glenview, Illinois 60025
312-328-1630

APPENDIX M

May 29, 1981 Status Hearing for May 29, 1981 stricken and reset to June 12, 1981.

UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Name of Presiding Judge, Honorable Marvin E. Aspen

Cause No. 81 C 0098 Date May 29, 1981

Title of Cause:
McCutcheon v. Board of Education, et al

Brief Statement of Motion:
ORDER

The rules of this court require counsel to furnish the names of all parties entitled to notice of the entry of an order and the names and addresses of their attorneys. Please do this immediately below (separate lists may be appended).

Names and Addresses of moving counsel:

Representing:

Names and Addresses of other counsel entitled to notice and names of parties they represent.

On the Court's own motion, status hearing set for May 29, 1981 is stricken and reset to June 12, 1981 at 10:30 a.m.

Marvin E. Aspen
JUN 1, 1981

Hand this memorandum to the Clerk.

Counsel will not rise to address the Court until motion has been called.

APPENDIX N

June 1, 1981 Decision of Marvin E. Aspen with inadequate notice of hearing to Plaintiff by Defendants (mailed after hearing).

UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Name of Presiding Judge, Honorable Marvin E. Aspen
Cause No. 81 C 0098 Date June 1, 1981
Title of Cause:
McCutcheon v. Board of Education, et al
Brief Statement of Motion:
ORDER

The rules of this court require counsel to furnish the names of all parties entitled to notice of the entry of an order and the names and addresses of their attorneys. Please do this immediately below (separate lists may be appended).

Names and Addresses of moving counsel:
Representing:
Names and Addresses of other counsel entitled to notice and names of parties they represent.

Plaintiff's motion for a change of venue is denied. Finance Authority's and Van Gorkom's motions for summary judgment of dismissal are granted. Heineke's Zielinski's and Brown's motions for summary judgment are granted. Board of Education's and Smith's motions for summary judgment are granted. Board of Education and Heineke's motions for judgment on their counterclaim are denied. (draft) Status hearing set for June 12, 1981 is stricken.

Marvin E. Aspen

Hand this memorandum to the Clerk.
Counsel will not rise to address the Court until motion has been called.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

No. 81 C 0098

ANABEL J. McCUTCHEON,

Plaintiff,

v.

BOARD OF EDUCATION, CITY OF CHICAGO, KENNETH SMITH, JAMES SCANLON, CHICAGO FINANCE AUTHORITY, JEROME VAN GORKOM, PAUL H. HEINEKE, CHRISTINE, ZIELINSKI, and THOMAS BROWN,

Defendants.

MEMORANDUM OPINION AND ORDER

MARVIN E. ASPEN, District Judge:

This is one of a series of lawsuits filed by plaintiff Anabel J. McCutcheon ("McCutcheon"), *pro se*, against the Board of Education of the City of Chicago ("the Board"), and a host of other parties who have been affiliated with the Board in the past, arising out of McCutcheon's termination as a teacher and principal in the Chicago public school system effective October 5, 1977.[1] This matter is presently before the Court on the defendants' motions to dismiss or, in the alternative, for summary judgment on a variety of grounds. For the reasons set forth below, the defendants' motions will be granted.

In the instant action, McCutcheon alleges that the defendants—the Board and Board President Reverend Kenneth Smith ("Smith"); the Chicago School Finance Authority ("the Finance Authority") and Finance Au-

[1] McCutcheon's suspension and eventual termination after a hearing were upheld by the Circuit Court of Cook County (Judge Nordberg presiding) in McCutcheon v. Board of Education, No. 77 L 21626 (October 22, 1979), *affirmed*, No. 79-17788, ... Ill.App.3d ..... (1st Dist. 1979).

thority Chairman Jerome Van Gorkom ("Van Gorkom"); and attorneys James Scanlon ("Scanlon"), Paul Heineke ("Heineke"), Christine Zielinski ("Zielinski"), and Thomas Brown ("Brown"), all of whom have represented the Board and Board employees in legal proceedings instituted by McCutcheon since 1976—acted individually and/or conspired together "to terminate Plaintiff's employment, to deprive her of a means of livelihood, and to deny her a public jury trial in the matter of her wrongful dismissal." Complaint at ¶ 13. McCutcheon further alleges that defendants Heineke, Zielinski, and Brown have continually represented the Board and other persons without legal authorization, that they have suppressed evidence to which she claims to be entitled, and that they have harassed and intimidated her in their various encounters in state and federal court since 1976. Complaint at ¶ ¶ 14, 15, 16. McCutcheon also claims that the Board, Smith, the Finance Authority, and Van Gorkom have failed to terminate the Board's allegedly unlawful contracts for legal representation with Heineke, Zielinski, and Brown and that they have failed to recover monies spent by the Board for such alleged "misrepresentation." Complaint at ¶ ¶ 17, 18, 19. The actions of all the defendants are alleged to be in violation of 42 U.S.C. §§ 1983, 1985, and jurisdiction is asserted under 28 U.S.C. § 1343.[2]

McCutcheon prays for a writ of mandamus restoring her to her previous position as principal of the Audubon school with back pay and damages, and an injunction against "any secret, retroactive contracts with Attorneys Heineke, Brown, and Zielinski and any members of their Law Firms" together with recovery to the Board of all funds paid to these attorneys between 1976 and 1980. McCutcheon also seeks the reinstatement of Nancy Gottlieb Pearson, not a party to this suit, to her former position as a teacher at the Audubon School.

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[2] McCutcheon also asserts jurisdiction under the so-called "Shakman Decree" in Shakman v. Democratic Organization, 356 F.Supp. 1241 (N.D. Ill. 1972). However, that case is completely irrelevant to the case at bar.

McCutcheon's Motion For a Change of Venue

As a threshold matter, McCutcheon has moved for a change of venue apparently on the ground that the Court is personally prejudiced or biased against her. 28 U.S.C. § 144. The gravaman of her motion seems to be her perception that she has been treated differently than the defendants by the Court during the relatively short gestation of this case. McCutcheon offers no evidence to support this claim; nor is such claim correct. McCutcheon, proceeding *pro se,* has been treated by the Court precisely as are other defendants, represented by legal counsel. Moreover, at each step, the Court has taken time to explain to McCutcheon the procedures followed in our federal practice and the Court has urged defense counsel to proceed with the same understanding.

In any event, it is well-settled that a judge may not be disqualified for bias or prejudice alleged to have developed during the course of the proceeding in which disqualification is sought. *United States* v. *Grinnell Corp.,* 384 U.S. 563, 583, 86 S.Ct. 1698, 1710 (1966); *Wolfson* v. *Palmieri,* 396 F.2d 121, 124 (2d Cir. 1968). The party seeking disqualification or recusal of the trial judge must point to specific incidents or statements by the judge said to evidence bias or prejudice arising from sources outside the courtroom. McCutcheon has failed to identify any such incidents or statements by the Court in support of her allegations of bias, other than her general dissatisfaction with the amount of paper—motions, memoranda, counter-claims, subpoenas, and summonses—that her lawsuit has generated. Accordingly, McCutcheon's motion for a change of venue based upon the Court's alleged prejudice or bias is denied.[3] It is so ordered.

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[3] McCutcheon has also moved for a change of venue from Magistrate Sussman, who has been supervising discovery in this matter. That motion was referred to the Executive Committee by Magistrate Sussman and was denied by Minute Order dated May 14, 1981. (Parsons, J).

Van Gorkom's and the Finance Authority's Motions

Van Gorkom moves to dismiss the complaint as to himself for lack of subject matter jurisdiction, Fed.R.Civ.P. 12(b)(1), and for failure to state a claim upon which relief can be granted, Fed.R.Civ.P. 12(b)(6), or, in the alternative, for summary judgment pursuant to Fed.R.Civ.P. 56. The Finance Authority joins in Van Gorkom's motion asserting the additional ground of insufficient service of process, Fed.R.Civ.P. 12(b)(5), in support of dismissal.

The claims against Van Gorkom and the Finance Authority in McCutcheon's complaint are identical, and they fail to state a cause of action under 42 U.S.C. § 1983 or § 1985 against either defendant. The alleged wrongs suffered by McCutcheon, the termination of her employment, the denial of a public jury trial and access to appeal, occurred well before the creation of the Finance Authority, of which Van Gorkom is chairman, in January, 1980. Neither the Finance Authority nor Van Gorkom may be held responsible under 42 U.S.C. § 1983 for any injury to McCutcheon that pre-dates the creation of the agency and the appointment of Van Gorkom since they could not have acted under color of state law prior to that date. Moreover, Van Gorkom and the Finance Authority may not be held responsible for not terminating the asserted contracts between the Board and attorneys Heineke, Zielinski, and Brown after January, 1980, since Ill.Rev.Stat. ch. 122, §§ 34A-401 (1980) specifically provides "that the Authority shall have no power to impair any existing contract or obligation of the Board." Since McCutcheon's prior litigation against the Board was virtually completed in 1979, the Finance Authority and Van Gorkom could have done nothing to either help or harm McCutcheon by the time they assumed their duties in January, 1980. Similarly, litigation subsequent to that date is covered by the renewed contract for legal representation entered in

April, 1979, prior to the creation of the Finance Authority and Van Gorkom's appointment.[4]

McCutcheon has also failed to state a claim under 42 U.S.C. § 1985. She has not alleged any class-based discriminatory animus as required under section 1985. *See Hampton* v. *Hanrahan,* 600 F.2d 600 (7th Cir. 1979), *reversed on other grounds,* 446 U.S. 754 (1980). Even assuming that McCutcheon's "class of one" would qualify for protection under that section, her "class" did not exists until after the alleged acts of the defendants. Thus, as the Seventh Circuit recognized in *Askew* v. *Bloemaker,* 548 F.2d 673, 678 (7th Cir. 1976), "no 'class-based discriminatory animus' could have motivated the defendants' actions, and the plaintiff [has] not met the prerequisites to a § 1985(3) claim under *Griffin* [v. *Breckenridge,* 403 U.S. 88, 102 (1971)]."

Accordingly, the Finance Authority's and Van Gorkom's motions for summary judgment of dismissal are

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[4] As set forth more fully in the discussion of the Board's and Smith's motions for summary judgment, *infra,* the Board retained Heineke, Zielinski, and Brown pursuant to its statutory obligation to insure or indemnify against costs of defense and liability in certain classes of actions brought against the Board or Board employees. The attorneys were initially retained for a three-year period running from April 21, 1976, to March 31, 1979. The contract was subsequently renewed and extended through March 31, 1982. Retention of counsel was on a "per occurrence" basis so that the time of the occurrence rather than the filing of the lawsuit is the controlling factor. Representation was to extend throughout the appellate process. *See* Affidavit of Robert L. Ward, Insurance Administrator of the Board (March 13, 1980).

granted, there being no genuine issue of fact material to a judgment in their favor.[5] It is so ordered.

Heineke's, Zielinski's, and Brown's Motions

Heineke, Zielinski, and Brown[6] have moved for summary judgment on the grounds that they did not act under color of state law for purposes of McCutcheon's claim under 42 U.S.C. § 1983 and that McCutcheon has not alleged any class-based discriminatory animus for purposes of her claim under 42 U.S.C. § 1985. The basis of McCutcheon's claims against these three attorneys is their representation of the Board, its members, or its employees in numerous lawsuits filed by McCutcheon over the past several years.[7] As succinctly stated by Judge Perry of this Court several years ago in *Dear* v. *Rathje*, 391 F.Supp. 1, 7-8 (N.D. Ill. 1975), "[i]t has long been held that a lawyer who represents a client as an attorney and is not a party in interest does not act under color

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[5] The Court has assumed for the purpose of resolving these motions on the merits that the Finance Authority was properly served with process at the commencement of this action. It should be noted, however, that McCutcheon's attempt to effect service on the Authority by serving its attorneys, Schiff, Hardin & Waite, with an alias summons is insufficient as a matter of law under either Fed.R.Civ.P. 4(d)(6) or Ill.Rev.Stat. ch. 110, § 18 (1979).

[6] McCutcheon moved for a default judgment as to Brown for his failure to answer the the complaint or otherwise plead within the requisite time period. Brown has since answered the complaint thereby rendering McCutcheon's motion moot.

[7] Although McCutcheon also named James Scanlon, an assistant attorney in the Law Department of the Board, as a defendant herein, Scanlon has apparently not been served with process and he is not now a party to this case. Moreover, McCutcheon seeks no relief as to Scanlon and the complaint fails to state a claim against him.

of law within the meaning of the Civil Rights Acts." *See also Hansen* v. *Ahlgrimm*, 520 F.2d 768, 770 (7th Cir. 1975); *Skolnick* v. *Martin*, 317 F.2d 857 (1963). McCutcheon's conclusory allegations of conspiracy involving some state actors are insufficient to overcome this defect. *Hansen* v. *Ahlgrimm, supra.* In addition, McCutcheon's claims against these defendants under section 1985 fail for the reasons set forth above with respect to the section 1985 claims against Van Gorkom and the Finance Authority. *See Askew* v. *Bloemaker, supra*, 548 F.2d at 678.

Accordingly, Heineke's, Zielinski's, and Brown's motions for summary judgment are granted. It is so ordered.

The Board's and Smith's Motions

The Board and Smith move for summary judgment pursuant to Fed.R.Civ.P. 56 on the grounds that McCutcheon has not stated a claim against them upon which relief can be granted and that any claim that could be inferred from the complaint arises from her termination as a Board employee in 1977, which claim is barred by the doctrines of res judicata and collateral estoppel in light of prior state and federal decisions dealing with the same parties and issues. The Court agrees.

The only claim raised in the complaint against the Board or Smith appears to be that they violated an alleged "duty" to "void any secret or retroactive agreements made wtih defendant Attorneys Heineke, Brown, Zielinski and to direct defendant Attorney James Scanlon to terminate his defense of Board Employees." Complaint ¶¶ 17, 18. According to the Illinois statutory scheme, the Board is required to insure or indemnify against suits against the Board or Board employees arising from, among other claims, any "alleged violation of civil rights occurring on or after September 5, 1967." Ill.Rev.Stat. ch. 122, § 34-18.1 (1979). Pursuant to this statutory directive, the Board hired attorneys Heineke, Zielinski, and Brown under a contract which originally ran from April 1, 1976, through March 31, 1979, and which was renewed

for an additional three-year period ending March 31, 1982. *See generally* Affidavit of Robert L. Ward, Insurance Administrator of the Board of Education of the City of Chicago (March 13, 1981) and footnote 4, *supra.* There is absolutely no support stated in the complaint for McCutcheon's allegations that the Board or Smith wrongfully failed to void any "secretive or retroactive contracts," Complaint at ¶ 17, or that they "wilfully and maliciously" incurred liability for attorneys' fees and costs, Complaint at ¶ 18. Thus, the complaint fails to state a claim against the Board or Smith, even under the liberal federal pleading standards.

Moreover, to the extent that McCutcheon is attempting to relitigate her underlying claims that she was wrongfully terminated from her position as principal of the Audubon school, decided adversely to her in *McCutcheon* v. *Preston,* No. 78 C 3955 (N.D. Ill., Nov. 26, 1979) and *McCutcheon* v. *Board of Education,* No. 78 C 3899 (N.D. Ill., Nov. 28, 1979) (Leighton, J.), in addition to various state proceedings, such an attempt is barred by principles of res judicata and collateral estoppel. *Samuel C. Ennis & Co., Inc.* v. *Woodmar Realty Co.,* 542 F.2d 45, 49 (7th Cir. 1976), *cert. denied,* 429 U.S. 1096 (1977). Accordingly, the Board's and Smith's motions for summary judgment are granted. It is so ordered.

Heineke's and the Board's Motion for Judgment on Their Counterclaim

As a final matter, certain defendants seek judgment on their counterclaim for an injunction restraining McCutcheon from filing any more motions in the present action and permanently enjoining the filing of any future actions against these defendants. They argue that "[t]he axiom that a person should have free access to the judicial process must be balanced against that person's abuse of the judicial process." Memorandum in Support of Counterclaim at 9. *See Gutman* v. *Gutman,* 65 Ill.App.2d

44, 212 N.E.2d 699 (1st Dist. 1965); *Ziebell* v. *Village of Posen*, 257 Ill.App. 32 (1st Dist. 1930); *Adams* v. *Oberndorf*, 121 Ill.App. 497 (1st Dist. 1905).

While we would admonish McCutcheon to refrain from filing any subsequent lawsuits raising the issues considered in this opinion, in the Court's view there are other less drastic remedies for any future abuse of judicial process than the rather broad ranging injunction sought by the defendants herein. Should McCutcheon persist in relitigating the issues disposed of in this action, we would assume that defendants would bring this opinion to the attention of the trial court in support of their motions for remedies. Accordingly, the motion for judgment on the counterclaim is denied. It is so ordered.

/s/ Marvin E. Aspen
Marvin E. Aspen
United States District Judge

DATED: 6/1/81

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS,
EASTERN DIVISION

Civil Action File No. 81 C 0098

McCUTCHEON, Anabel J.

vs.

BOARD OF EDUCATION, et al

JUDGMENT

This action came on for trial (hearing) before the Court, Honorable Marvin E. Aspen, United States District Judge, presiding, and the issues having been duly tried (heard) and a decision having been duly rendered.

It is Ordered and Adjudged

Plaintiff's motion for a change of venue is denied. Finance Authority's and Van Gorkom's motions for summary judgment of dismissal are granted. Heineke's Zielinski's and Brown's motions for summary judgment are granted. Board of Education's and Smith's motions for summary judgment are granted. Board of Education and Heineke's motions for judgment on their counterclaim are denied. (draft)

/s/ H. Stuart Cunningham
H. Stuart Cunningham
Clerk

_____

Deputy Clerk of Court

Dated at Chicago, Illinois,
this 1st day of June, 1981.

APPENDIX O

June 5, 1981 Decision of Judge Crowley (81 C 2411) with inadequate notice of hearing to Plaintiff (mailed after hearing).

Name of Presiding Judge, Honorable John P. Crowley

Cause No. 81 C 2411 Date 6/5/81

Title of Cause:

McCutcheon v. Board of Ed. & Heineke

Brief Statement of Motion:

Defendants' Motion to Dismiss.

The rules of this court require counsel to furnish the names of all parties entitled to notice of the entry of an order and the names and addresses of their attorneys. Please do this immediately below (separate lists may be appended).

Names and Addresses of moving counsel:

Thomas P. Brown
221 N. LaSalle St.
Chicago, Ill. 60601

Michael J. Murray
Board of Education
Law Dept.
228 N. LaSalle St.
Chicago, Ill. 60601

Representing:

.....

Names and Addresses of other counsel entitled to notice and names of parties they represent:

Anabel J. McCutcheon
2653 Stewart Ave.
Evanston, Ill.

Hearing on defendants' motion to dismiss the complaint held. For the reasons stated in open court, the motion to dismiss is granted.

Hand this memorandum to the Clerk.

Counsel will not rise to address the Court until motion has been called.

APPENDIX P

July 10, 1981 Payment of Docketing Fees upon first Demand.

Apt. 3B: 1917 Tanglewood
Glenview, Illinois 60025
July 10, 1981

HONORABLE THOMAS STRUBBE,
CLERK OF THE SEVENTH CIRCUIT
COURT OF APPEALS, 27th Floor
219 South Dearborn Street
Chicago, Illinois 60604

Re: Docket Fee for 81-1987
PAID IMMEDIATELY UPON DEMAND
RECEIVED JULY 9, 1981

Please be advised that I submitted a $70.00 check to H. STUART CUNNINGHAM, CLERK OF THE DISTRICT COURT—following receipt of a June 23, 1981 communication—on July 9, 1981.

That said Clerk or his subordinates requested no docketing fees at the time of filing.

That in the same mail I received a June 25, 1981 FINAL ORDER from the 7th Circuit Court of Appeals in 78 C 2568—untimely mailed (or deliberately backdated) to deny me the right of a rehearing.

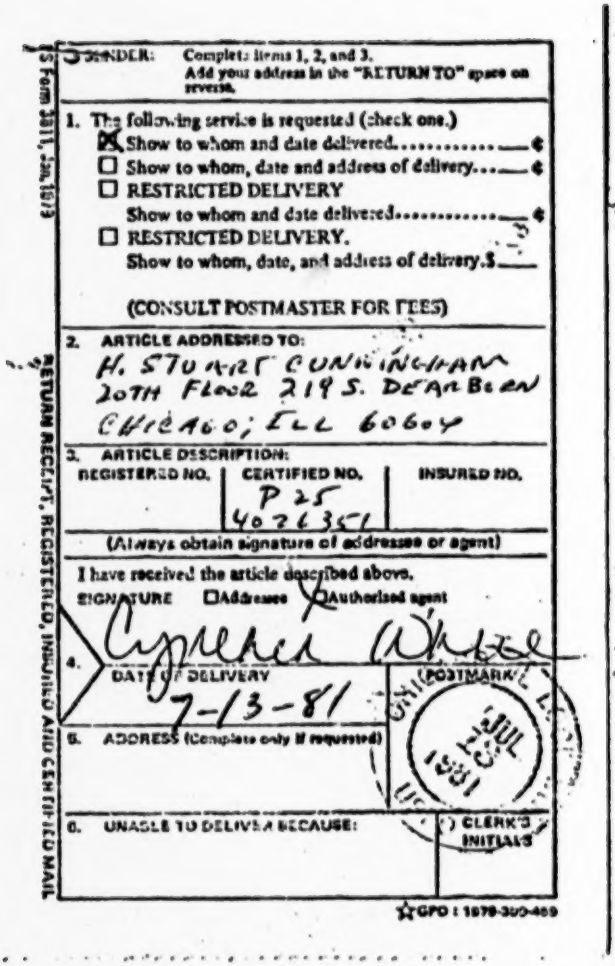
I beg your indulgence in the accepting of the docket fee UPON THE FIRST IMMEDIATE DEMAND—as these untimely mailings from your office have increased since the filing of a civil suit (naming CHARLIE WEBB) for alteration,"loss", and blatant refusal to submit pertinent documents to the 7th Circuit Court and the U.S. Supreme Court—the "loss" being 40 Court Trial Transcripts—evidence of the criminal misuse of funds by Defendants Board of Education placed before the Honorable

Judge George C. Leighton, former City of Chicago Corporation Counsel.

Thank you for your kind consideration.

/s/ Anabel J. McCutcheon
Anabel J. McCutcheon

CC: William French Smith
Department of Justice
President Ronald Reagan
The White House
H. Stuart Cunningham



PS Form 3811, Jan. 1979

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

SENDER: Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one.)
- [X] Show to whom and date delivered..... ¢
- [ ] Show to whom, date and address of delivery.... ¢
- [ ] RESTRICTED DELIVERY
  Show to whom and date delivered..... ¢
- [ ] RESTRICTED DELIVERY.
  Show to whom, date, and address of delivery.$

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
H. STUART CUNNINGHAM
20TH FLOOR 219 S. DEARBORN
CHICAGO, ILL 60604

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	P 25 407 635 1	

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE [ ] Addressee [X] Authorized agent

Cynthia White

4. DATE OF DELIVERY
7-13-81

(POSTMARK)
JUL 23 1981

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

( ) CLERK'S INITIALS

☆GPO : 1979-300-409

APPENDIX Q

July 14, 1981 Second Demand for Fees from* Charlie Webb, Deputy Clerk of USCA.

CIRCUIT RULE 26(c) NOTICE

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT
219 South Dearborn Street
Chicago, Illinois 60604

Thomas F. Strubbe
Clerk
312-435-5850

81-1987

14 July 1981

Anabel J. McCutcheon
1917 Tanglewood Drive
Apartment 3B
Glenview, IL 60025

Dear Ms. McCutcheon:

You have failed to pay the required $65 docketing fee to the U.S. District Court. Therefore, you must do one of two things or your case will be dismissed.

1. pay the required $65 docketing fee to the U.S. District Court, or
2. come into the U.S. District Court with a motion to proceed on appeal in forma pauperis, which motion must be supported by the enclosed declaration.

Failure to comply with the above will result in your case being dismissed immediately.

/s/ Charles Graham Webb
Charles Graham Webb
Deputy Clerk

---

* Defendants in Complaint 81 C 686, 81 C 1143 filed Jan., Feb., 1981

APPENDIX R

AO 82
(Rev. 8/80)

ORIGINAL
RECEIPT FOR PAYMENT
UNITED STATES DISTRICT COURT
for the
NORTHERN DISTRICT OF ILLINOIS

39846

at Chicago

RECEIVED FROM Ann Jean McCutcheon

Anabel J. McCutcheon -vs- Chicago Board of Education

ACCOUNT	AMOUNT	
	70	00
TOTAL		

Case Number or Other Reference
76 C 4763
&
81 C 98

Account Code

100	**DEPOSIT FUND**
101	Trustee Fees
102	Restitution
200	**REGISTRY FUND**
201	Cash Bail
202	Land Condemnation
	GENERAL AND SPECIAL FUND
310	Immigration Fees
320	Attorney Admission Fee
330	Filing Fees
331	Civil Cases
332	Writ of Habeas Corpus
333	Appeals
334	Bankruptcy Cases (Clerk's Fee)
340	Sale of Publications
350	Copy Fees
360	Miscellaneous Fees
380	Recoveries of Costs
	FINES, PENALTIES AND FORFEITURES
410	Agricultural Laws
420	Economic and Stabilization Laws
430	Immigration and Labor Laws
440	Customs, Commerce and Anti-Trust Laws
450	Narcotics Prohibition and Alcohol Laws
460	Forfeitures of Unclaimed Money and Property
470	Mining Enforcement and Safety Administration
480	Internal Revenue Service (Criminal Fines)
490	Collateral Forfeitures (CVB)
500	Appearance Bond Forfeitures and Other Fines, Penalties or Forfeitures Not Otherwise Classified

2764763 391 8 70.00 CC
70.00 TL
70.00 CATD
111 4331 7/15/81 2A
.00 CALC

DATE / / 19	Cash	Check	M.O.

DEPUTY CLERK

APPENDIX S

Resolution 77-105

January 26, 1977

77-105

RESOLUTION

Burger v. *Board of Education of the City of Chicago, Saul Samuels, Blaine DeNye,* 75 L 10160

Winburg v. *B and C Electric, Inc., Board of Education of the City of Chicago and Saul Samuels* 71 CH 7338

It is hereby resolved that the Board of Education pay the reasonable legal fees incurred by Saul Samuels, former Director, Bureau of Architecture, and Blaine DeNye, a Board employee in defending the above causes of action in which the Board of Education is a co-defendant, and is represented by the Law Department. Statement for said reasonable legal fees will be submitted to the Law Department and is subject to Board of Education approval. The Attorney is directed to take steps to recoup said fees in the event a final judgment is rendered finding the individual defendants were not acting under the direction of the Board within the course or scope of their duties.

APPENDIX T

Pay Bill Jenner & Block 74-456

May 8, 1974

74-456

PAY BILL OF JENNER AND BLOCK FOR LEGAL SERVICES

RECOMMENDATION:

That the bill of Jenner and Block in the amount of $4,750 for professional services rendered from November, 1973 through March, 1974 be paid.

DESCRIPTION:

Judgment has been entered for defendants in the suit of Charles Eugene Rhodes, et al., v. City of Chicago in Trust for the Use of Schools, et al., 73 C 1425 which is an action in Federal District Court, for injunctive relief and damages against the Board of Education, Dr. James F. Redmond, Michael J. Murray, Frank S. Righeimer and Richard E. Girard involving the acquisition of property for an addition to the site at Van Vlissingen School. A notice of appeal has been filed to the Court of Appeals 7th Circuit by plaintiffs. Because the Board, its Attorney, Special Attorney and an Assistant Attorney in the Law Department are named as defendants it was necessary as we previously reported that outside counsel be retained to defend the case. The firm of Jenner and Block has submitted a statement for legal services which is on file in the Office of the Secretary.

SUPPORTIVE DATA:

The charges for professional services are proper and reasonable, are the usual and customary charges made by Jenner and Block for such services in federal

court actions; that the services rendered were required and satisfactorily performed.

FINANCIAL:

Charge to 14-1-101-41. Legal Expenses.....$4,750.

Respectfully submitted,

MICHAEL J. MURRAY
Attorney

Prepared by:
FRANK S. RIGHEIMER
Special Attorney

Within Appropriation:
ROBERT STICKLES
Controller

APPENDIX U

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

July 29, 1981

No. 79-2568

ANABEL J. McCUTCHEON,
Plaintiff-Appellant,
vs.
BOARD OF EDUCATION, CITY OF CHICAGO, et al.,
Defendants-Appellees.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.
No. 78-C-3899
Judge George N. Leighton

NOTICE TO RESPOND

TO:

Anabel J. McCutcheon
Apartment 3B
1917 Tanglewood Drive
Glenview, Illinois 60025

A RESPONSE (AN ORIGINAL AND THREE COPIES, WITH PROOF OF SERVICE) IS REQUIRED ON OR BEFORE August 10, 1981

TO

"BILL OF COSTS-ATTORNEYS FEES: filed herein on July 8, 1981, by counsel for the defendants-appellees.

Copies to:

Thomas P. Brown, 221 N. LaSalle St., Chicago, Illinois 60601
Paul H. Heineke, Rm. 3110, 135 S.LaSalle St., Chicago, Illinois 60603
Michael J. Murray, Board of Education, 228 N. LaSalle St., Rm. 312, Chicago, Illinois 60601

OFFICE OF THE CLERK
SUPREME COURT OF THE UNITED STATES
WASHINGTON, D. C. 20543

July 28, 1981

Anabel J. McCutcheon
Apartment 3B
1917 Tanglewood Drive
Glenview, Illinois 60025

Re: Anabel J. McCutcheon v. Board of Education, City of Chicago, et al.
81-147

Dear Ms. McCutcheon:

Your petition for extraordinary writ or in the alternate for a writ of certiorari to the U.S. Court of Appeals for the Seventh Circuit has been docketed in this Court as a petition for a writ of certiorari. The petition for a writ of certiorari in the above entitled case was docketed in this Court on July 24, 1981 as No. 81-147.

Forms are enclosed for notifiying opposing counsel that the case was docketed.

Very truly yours,

ALEXANDER L. STEVAS, CLERK

By Loretta S. Ruffin

Loretta S. Ruffin
Assistant

Enclosures

APPENDIX V

Mr. H. Stuart Cunningham
Clerk, U.S. District Court
219 South Dearborn Street
Chicago, Illinois 60604

United States Court of Appeals

FOR THE SEVENTH CIRCUIT
219 So. Dearborn Street
Chicago, Illinois 60604

August 17, 1981

Taxed in favor of: BOARD OF EDUCATION, CITY OF CHICAGO, et al., Defendants-Appellees.

BILL OF COSTS

In Cause No. ____
U.S.C.A.-7 No. 79-2568
U.S.D.C. No. 78-C-3899

ANABEL J. McCUTCHEON,
Plaintiff-Appellant.
vs.
BOARD OF EDUCATION, CITY OF CHICAGO, et al.,
Defendants-Appellees.

	COST OF EACH ITEM		
1. For Docketing a case on appeal or review or docketing any other proceeding	$65.00		
2. For Making a typed copy of any record or paper, per page	2.00		
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For Certification of any document or paper, whether the certification is made directly on the document, or by separate instrument	2.00		
For a photographic reproduction of any record or paper, per page	.50		
3. For every search of the records of the court and certifying the result of same	2.00		
4. Charge for copy of an opinion of the court	2.00		
5. Charge for printing of brief (Scheffer Press)		$770	77
6.			
Total		$770	77

Mandate issued July 29, 1981.

United States Court of Appeals 16

For the Seventh Circuit
Chicago, Illinois 60604

August 18, 1981

Before

Hon. RICHARD D. CUDAHY, Circuit Judge

Hon. _____

Hon. _____

ANABEL J. McCUTCHEON,
Plaintiff-Appellant,

No. 79-2568 vs.

BOARD OF EDUCATION, CITY OF CHICAGO, et al.,
Defendants-Appellees.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

No. 78-C-3899
George N. Leighton, Judge.

This matter comes before the court for its consideration upon the following documents:

1. The "MOTION FOR DOUBLE COSTS" filed herein on July 2, 1981 by defendants-appellees.

2. The "MOTION FOR ATTORNEYS FEES" filed herein on July 2, 1981 by counsel for the defendants-appellees.

3. The "BILL OF COSTS-ATTORNEYS FEES" filed herein on July 8, 1981 by counsel for the defendants-appellees.

4. The "PLAINTIFF'S RESPONSE TO SUA SPONTE ORDER RECEIVED UNTIMELY, AUG. 7th" filed herein on Auguust 11, 1981 by pro se plaintiff-appellant, Anabel J. McCutcheon.

On consideration thereof,

IT IS ORDERED that the motion for double costs and the motion for attorneys fees are hereby DENIED.